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U.S. Judge Instructs Jury in the Trial Of FBI Ex-Aides

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A federal judge yesterday told a jury to acquit two former top FBI officials if it finds they reasonably thought they had approval from acting FBI director L. Patrick Gray for "black bag" break-ins in 1972 and 1973.

But Chief U.S. District Court Judge William Bryant instructed the panel to find W. Mark Felt and Edward S. Miller guilty if it concludes they did not make that "mistake of law" — and failed to get specific approval from the president or attorney general for the break-ins.

After almost two hours of instructions, Bryant sent the jury into deliberations at 11:50 a.m. in the seven-week-old trial that included testimony from Richard Nixon and two of his attorneys general, John Mitchell and Richard Kleindienst.

Defense lawyers, who complained bitterly about Bryant's proposed jury instructions last week, expressed satisfaction at the final language that included the "mistake of law" clause that could exonerate Felt and Miller.

Felt, 67, and Miller, 56, are charged with conspiring to commit civil rights violations by approving break-ins — known as "black bag jobs" — at the New York and New Jersey homes of five friends and relatives of fugitive members of the radical Weather Underground. If convicted, each would face a maximum penalty of 10 years in prison and a $10,000 fine.

Leaders of the anti-war group were linked to terrorist bombings, and in a dramatic courtroom appearance, Nixon testified he felt the break-ins were justified because the bombings were disrupting attempts to negotiate an end to the Vietnam war.

Nixon also testified he delegated authority for national security break-ins to the FBI.

In his 10 hours of testimony, Felt said he received "general approval" from Gray to authorize "bag jobs" in late 1972 to combat terrorism. Gray, who faces a separate trial on the same charges, denies approving the break-ins.